

Message Text

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TO USMISSION GENEVA

LIMITED OFFICIAL USE STATE 217772

FOR AMBS VANDEN HEUVEL AND CARTER FM DALLEY

E.O. 11652: N/A

TAGS: SHUM, OCON

SUBJECT: RESPONSE TO REQUEST FROM HUMAN RIGHTS DIVISION
FOR INFORMATION ON THE HEALTH AND WELFARE OF RUSSELL MEANS

1. THE DEPARTMENT WAS RECENTLY ASKED BY THEO VAN BOVEN, DIRECTOR OF THE HUMAN RIGHTS DIVISION, TO RESPOND TO SOME NGO CONCERNS ABOUT THE "CRITICAL HEALTH SITUATION OF RUSSELL MEANS, A LEADER OF NORTH AMERICAN INDIANS, ARRESTED ON JULY 27TH." MEANS WAS REPORTED TO HAVE STARTED A FAST MORE THAN TWENTY-SEVEN DAYS AGO AND VAN BOVEN STATED THAT "INDIAN LEADERS ARE SAID TO FEAR A FATAL OUTCOME AND TO BE EXTREMELY CONCERNED FOR RUSSELL AND ABOUT PROBABLE CONSEQUENCES FOR THE INDIAN POPULATION." WE HAVE COLLECTED THE FOLLOWING INFORMATION TO ENABLE YOU TO RESPOND TO THIS INQUIRY.

2. RUSSELL MEANS HAS BEEN ON A "SPIRITUAL FAST" WHILE INCARCERATED AT THE SIOUX FALLS, SOUTH DAKOTA STATE
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PENITENTIARY SINCE JULY 30 AND IS CURRENTLY TAKING ONLY WATER. HE IS LOSING STRENGTH RAPIDLY, HAS LOST 26 POUNDS, BUT IS NOT IN CRITICAL CONDITION AT THIS TIME. THE WARDEN OF THE PRISON, HERMAN SOLEM, APPEARS TO BE GENERALLY CONCERNED ABOUT MEANS' HEALTH. HE HAS ORDERED THAT MEANS BE GIVEN A WEEKLY PHYSICAL AND IS KEEPING A

CLOSE WATCH ON HIM SO THAT HIS HEALTH DOES NOT REACH A CRITICAL OR COMATOSE STAGE. PRISON OFFICIALS HAVE REQUESTED A COURT ORDER WHICH WOULD REQUIRE THAT MEANS BE FED INTRAVENOUSLY. ALTHOUGH HIS LAWYERS ARE ATTEMPTING TO BLOCK THIS ORDER, THE JUDGE BELIEVES HE HAS FOUND A PRECEDENT AND THAT HE MAY SOON GRANT THE ORDER. MEANS HAS STATED THAT IF THE JUDGE GRANTS THE ORDER, HE WILL COMPLY WITH IT, AGAINST HIS OWN WISHES.

3. MEANS IS CURRENTLY SERVING A FOUR-YEAR SENTENCE FOR HIS CONVICTION OF "RIOTING TO OBSTRUCT JUSTICE." THE CHARGE RELATES TO AN INCIDENT WHICH OCCURRED IN 1975 IN A COURTROOM WHEN INDIANS REFUSED TO STAND WHEN THE JUDGE WALKED IN BECAUSE THEY DID NOT BELIEVE THAT THE JUDGE HAD APPLIED THE LAW EQUITABLY IN ANOTHER CASE. THE RESULTS OF THIS CASE WAS THAT MEANS WAS CONVICTED OF HITTING A POLICEMAN. THE LAW UNDER WHICH MEANS WAS ORIGINALLY CONVICTED (ALMOST TWO YEARS AGO) HAS SINCE BEEN REPEALED BY THE STATE LEGISLATURE.

4. MEANS' CASE HAS GONE THROUGH SEVERAL TIERS OF THE JUDICIAL PROCESS AND AN APPEAL WAS RECENTLY TURNED DOWN BY THE STATE OF SOUTH DAKOTA SUPREME COURT. AS A RESULT OF A HABEAS CORPUS PLEA, A FEDERAL JUDGE, FRED NICHOL, IS REVIEWING THE RECORDS FROM THE TRIAL TO DETERMINE IF ANY FEDERAL CIVIL RIGHTS STATUTES WERE VIOLATED DURING THE LIMITED OFFICIAL USE

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PREVIOUS PROCEEDINGS.

5. MEANS' LAWYERS HAVE REQUESTED THAT HE BE RELEASED ON BAIL WHILE THE FEDERAL JUDGE IS REVIEWING THE RECORDS. ALTHOUGH MEANS HAS NEVER HAD TO FORFEIT BAIL IN THE PAST AND HAS ALWAYS APPEARED FOR HIS COURT CASES, THE FEDERAL JUDGE REFUSED TO GRANT THE BAIL BECAUSE HE DID NOT WANT TO INTERFERE WITH WHAT HE CONSIDERS "STATE JURISDICTION."

6. FYI ONLY. WE HAVE DISCUSSED THIS CASE WITH THE SENATE SUBCOMMITTEE ON INDIAN AFFAIRS WHO HAVE CONTACTED THE WARDEN TO DETERMINE THE STATUS OF MEANS' HEALTH, AND THE JUSTICE DEPARTMENT'S CIVIL RIGHTS DIVISION. IT IS THE PRESENT POSITION OF THE JUSTICE DEPARTMENT THAT THEY HAVE NO JURISDICTION IN THE MEANS CASE BECAUSE THE INCARCERATION IS DUE TO A CHARGE BY THE STATE OF SOUTH DAKOTA, WHERE MEANS HAS BEEN TRIED, CONVICTED, APPEALED AND IMPRISONED. THE JUSTICE DEPARTMENT IS FOLLOWING THE CASE, BUT WILL NOT INTERVENE UNLESS IT IS FOUND THAT FEDERAL CIVIL RIGHTS STATUTES HAVE BEEN VIOLATED. CHRISTOPHER

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